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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,908	02/10/2005	Isabela Ferri	D 43458-01-US	1318
7590 Scaled Air Corporation P O Box 464 Duncan, SC 29334				
EXAMINER				
BECKER, DREW E				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/500,908

Applicant(s)

FERRI ET AL.

Examiner

Drew E. Becker

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 11-14, and 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutowski et al [Pat. No. 3,191,849] in view of Barmore et al [Pat. No. 6,520,332].

Gutowski et al teach a package comprising top and bottom opposing flexible sheets (Figure 3, #1-2), a watertight chamber for holding meats (Figures 1-3, #6), reinforcing frame members along the perimeter of the chamber (Figure 3, #9), the reinforcing member being sealed between a pair of heat seals (Figure 5, #18-19 & 21), a lid sheet comprising both the top frame sheet and the top chamber sheet (Figure 5, #17), a base sheet comprising both the bottom frame sheet and the bottom chamber sheet (Figure 5, #16), the top and bottom sheets being plural plies of thermoplastic polymers (column 3, lines 51-61), and a chamber inflation passage for inserting a modified atmosphere (column 5, line 65). Gutowski et al do not recite a hollow frame circumscribing the chamber which can be inflated, the sheets having an oxygen transmission rate of less than 150 cc/m²/day, a frame inflation passage, and a frame pressure of at least about 0.2 bar gauge. Barmore et al teach an inflated package frame (Figure 1) comprising a hollow frame formed by top and bottom sheets (Figure 4, #102 & 104), the sheets being

gas impermeable (column 6, line 38), and a frame inflation passage (Figure 1, #130). It would have been obvious to one of ordinary skill in the art to incorporate the inflatable frame features of Barmore et al into the invention of Gutowski et al since both are directed to containers made from top and bottom sheets, since Gutowski et al already included a modified atmosphere of insert gas such as nitrogen or carbon dioxide (column 5, line 65), since the gas impermeable sheets of Barmore et al would have prevented the ingress of oxygen into the chamber of Gutowski et al, since Gutowski et al already included reinforcing elements along the chamber perimeter (Figure 3, #9) as well as packaging meat (Figure 1, #6), since the inflated frame of Barmore et al was needed for shipping prepackaged meat to be shipped in quantity without damage to the meat and containers (column 1, lines 57-62), and since using the same the sheets for both the chamber of Gutowski et al and the frame of Barmore et al would have further ensured the safety of the meat since this would practically eliminate the possibility of the meat becoming separated from the cushioning frame of Barmore et al during the shipping and transporting process. It would have been obvious to one of ordinary skill in the art to use a pressure of at least 0.2 bar in the packaged product of Gutowski et al, in view of Barmore et al, since Barmore et al already taught an inflated frame, since a substantial overpressure within the frame would have prevented it from sagging and causing possible damage to the meat, and since this amount of overpressure would have been attempted during the course of normal experimentation and optimization procedures.

3. Claims 7, 10, 23, and 25-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutowski et al, in view of Barmore et al, as applied above, and further in view of Marnocha et al [Pat. No. 5,582,853].

Gutowski et al and Barmore et al teach the above mentioned components. Gutkowski et al also teach unrolling top and bottom sheets from rolls (Figure 8, #40-41) and severing the top and bottom sheets (Figure 8, #50). Barmore et al also teach forming the inflated frame by heat sealing the inner and outer edges of the base and lid sheets (column 6, lines 55-65). Gutowski et al and Barmore et al do not recite an adhesive seal, an opaque bottom sheet, a process for making the packaged product by a base web, placing a product on it, positioning a lid over the product, sealing the lid to the base to form the chamber and frame, thermoforming the base and lid before placing them with the product, and simultaneous sealing of the frame seals. Marnocha et al teach a packaged meat and process comprising adhesive seals (column 7, line 54), an ink layer within the sheets (Figure 3, #302 & 312), placing the meat within the base web (Figure 6, #205 & 212), positioning a lid web over the product (Figure 6, #210), sealing the lid to the base (column 7, line 52-58), and thermoforming the base and lid (column 4, lines 5-10). It would have been obvious to one of ordinary skill in the art to incorporate the adhesive and opaque sheets of Marnocha et al into the invention of Gutowski et al, in view of Barmore et al, since all are directed to packaged meat products, since Gutowski et al and Barmore et al already included seals, since the use of adhesive for seals was commonly known and used in the art as shown by Marnocha et al, since the use of adhesive provided greater flexibility in choosing sheet materials which not be capable of

heat sealing, since Gutowski et al already taught providing printed information on the package (column 4, lines 10-12), since opaque surfaces were commonly known and used in the art as shown by the ink laminate layers of Marnocha et al (Figure 3, 3302 & 312), and since making the bottom sheet Gutowski et al opaque would have provided greater surface area for printing nutritional information and other necessary information or simply just providing an appealing design or graphic. It would have been obvious to one of ordinary skill in the art to incorporate the packaging steps of Marnocha et al into the invention of Gutowski et al, in view of Barmore et al, since all are directed to packaged meat products, since the method of Marnocha et al was the most commonly used and conventional process for sealing meat in packages, and since the on-site packaging process of Marnocha et al would have eliminated the need for off-site package making and shipping to the meat facility as described by Gutowski et al (Figure 8). Although not specifically mentioned, it would have been obvious to one of ordinary skill in the art to simultaneously perform the seals of Gutowski et al, in view of Barmore et al and Marnocha et al, since the references simply did not specify when the seals were made, since simultaneous sealing was the conventional method, since this would provide faster package forming, since faster package making would result in greater production output, and since simultaneous sealing would eliminate the need for plural sealing steps.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutowski et al, in view of Barmore et al, as applied above, and further in view of Norton et al [Pat. No. 4,278,198].

Gutowski et al and Barmore et al teach the above mentioned components. Barmore et al also teach the food containers being removable from the inflated frame (Figure 1) as well as the sheets having cuts in them and removing portions of the sheets (column 7, lines 14-24). Gutowski et al and Barmore et al do not recite a weakness line to permit detachment of the frame from the chamber. Norton et al teach a container which is separable from other containers by use of a line of weakness (Figure 4, #50). It would have been obvious to one of ordinary skill in the art to incorporate the line of weakness of Norton et al into the invention of Gutowski et al, in view of Barmore et al, since all are directed to containers, since the meat container Gutowski et al was meant to be a stand alone structure when being displayed for retail sale (column 1, line 32 to column 2, line 15), since Barmore et al already taught the inflated frame being separable from the food container (Figure 1) as well as the sheets having cuts in them and removing portions of the sheets (column 7, lines 14-24), and since a line of weakness was an effective means for easily separating sheet materials as shown by Norton et al.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutowski et al, in view of Barmore et al, as applied above, and further in view of Chalin et al [Pat. No. 3,873,735].

Gutowski et al and Barmore et al teach the above mentioned components. Barmore et al also teach the sheets having cuts in them and removing portions of the sheets (column 7, lines 14-24). Gutowski et al and Barmore et al do not recite a tear-open slit adjacent the chamber seal and perpendicular to the chamber seal. Chalin et al teach a food container which has a tear-open slit located adjacent a chamber seal and

perpendicular to it (Figure 2, #160 & 164). It would have been obvious to one of ordinary skill in the art to incorporate the tear-open slit of Chalin et al into the invention of Gutowski et al, in view of Barmore et al, since all are directed to containers, since the meta container Gutowski et al already included a perimeter seal which needed to be opened, and since a tear-open slit was an effective means for easily opening food containers as shown by Chalin et al.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutowski et al, in view of Barmore et al, as applied above, and further in view of DeLuca [Pat. No.5,692,833].

Gutowski et al and Barmore et al teach the above mentioned components. Barmore et al also teach the inflatable frame having a self sealing valve (column 7, line 34). Gutowski et al and Barmore et al do not recite a one-way valve. DeLuca teaches an inflated container with a one-way valve (Figure 4, #8). It would have been obvious to one of ordinary skill in the art to incorporate the one-way valve of DeLuca into the invention of Gutowski et al, in view of Barmore et al, since all are directed to containers, since Barmore et al already taught the inflated frame having a self-sealing valve to control air flow (column 7, line 34), and since a one-way valve was an effective means for preventing egress of air from an inflated article as shown by DeLuca.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutowski et al, in view of Barmore et al and Marnocha et al, as applied above, and further in view of Cohen [Pat. No. 5,137,154].

Gutowski et al, Barmore et al, and Mamocha et al teach the above mentioned concepts. Gutowski et al, Barmore et al, and Mamocha et al do not recite folding the base sheet over itself to form the lid sheet. Cohen teaches a food container with an inflated frame (Figure 1, #15-16) wherein the base sheet over itself to form the lid sheet (column 2, line 38). It would have been obvious to one of ordinary skill in the art to incorporate the single sheet method of Cohen into the invention of Gutowski et al, in view of Barmore et al and Mamocha et al, since all are directed to methods of packaging foods, since Gutowski et al already used a base and lid sheet, and since folding the base sheet over itself, as done by Cohen, would result in one less seal to be made.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. De Harak [Pat. No. 3,771,247], Ho [US 2005/0263426], Forbes Jr [Pat. No. 3,784,086], Yoshida [US 2007/0003170], Lowe [Pat. No. 5,061,501], James [Pat. No. 5,950,833], and Hwang [Pat. No. 5,617,662] teach package frames and containers.

Response to Arguments

9. Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Drew E Becker/
Primary Examiner, Art Unit 1794